



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,161	02/11/2004	Masahiko Tanaka	248794US2S	1184
22850 7590 05/09/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER DINH, TAN X	
			ART UNIT 2627	PAPER NUMBER
			NOTIFICATION DATE 05/09/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/775,161	TANAKA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	TAN X. DINH	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

1) Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

2) The I.D.S filed 2/11/2004, 9/12/2005, 12/07/2005, 5/01/2006 and 11/28/2006 have been considered by the Examiner. However, the Japan and/or foreign document(s), if they have not been written in English, are considered to the extent that could be understood from the English Abstract and the drawings.

Form PTO-1449 or PTO/SB/08 is(are) attached herein.

3) The disclosure is objected to because of the following informalities: The phrase " according to claim 1 " in " BRIEF SUMMARY OF THE INVENTION " of the specification must be eliminated since claim 1 could be amended and changing its scope.

Appropriate correction is required.

4) Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase " RIM " ( claim 2 ) is indefinite. What is " RIM " standing for ?.

Claims 3 and 4 are unclear and cannot be understood. claims 3 and 4 recite the method for recording and reproducing without specific steps to warrant this feature.

5) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

6) (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7) Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by ITONAGA et al (EPA, 1 178 471 A2 ).

ITONAGA et al discloses an optical disk capable of recording or reproducing information with a light beam of an optical head, as claimed in claim 1, comprising:

a first recording area in which the information can be recorded by the optical head ( Fig.1, data area 3 ); and

a second recording area in which information of the optical head is recorded in order to record the information on the optical disk ( Fig.1, LEAD-IN area 2. See also paragraphs [0034] and [0035]. In this case, the information about optimum recording power of the optical head is recorded on pre-pits area 2 ).

The feature RIM intensity (RIM value) of claim 3 is inherent in ITONAGA et al's optical recording device since the recording power includes RIM intensity, which is the relationship between

numerical aperture NA of the objective lens and the intensity distribution of the optical head ).

Method and apparatus *claim(s) 3 and 4* drawn to the apparatus and method corresponding optical disc claimed in claim 1. Therefore, method and apparatus *claim(s) 3 and 4* are rejected for the same reasons of anticipation (obviousness) as used above.

8) Claims 1-4 are further rejected under 35 U.S.C. 102(b) as being anticipated by TORAZAWA et al ( 6,339,571 ).

TORAZAWA et al discloses an optical disk capable of recording or reproducing information with a light beam of an optical head, as claimed in claim 1, comprising:

a first recording area in which the information can be recorded by the optical head ( Fig.4, data area 10 ); and  
a second recording area in which information of the optical head is recorded in order to record the information on the optical disk ( Fig.4, LEAD-IN area 8. See also the abstract. In this case, the information about the optical head ( wavelength  $\lambda$ , optical pulses, present or absent optical head, etc., ) is recorded on LEAD-IN area 8 ).

The feature RIM intensity (RIM value) of claim 3 is inherent in TORAZAWA et al's optical recording device since the recording power includes RIM intensity, which is the relationship between

Art Unit: 2627

numerical aperture NA of the objective lens and the intensity distribution of the optical head ).

Method and apparatus *claim(s) 3 and 4* drawn to the apparatus and method corresponding optical disc claimed in claim 1. Therefore, method and apparatus *claim(s) 3 and 4* are rejected for the same reasons of anticipation (obviousness) as used above.

9) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant is reminded that in amending in response to a rejection of claims ( if the rejection involves with any applicable arts ), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

Form PTO-892 is attached herein.

10) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN XUAN DINH whose telephone number is (571)272-7586. The examiner can normally be reached on MONDAY to FRIDAY from 9:00AM to 5:00PM.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TAN DINH**  
**PRIMARY EXAMINER**

May 2, 2007